

EXHIBIT I

DWAYNE L. LIDDELL - 11/28/00

SCOTT V FOSTER, et al.

Page 1		Page 1
1 IN THE CIRCUIT COURT OF THE STATE OF OREGON		1 BE IT REMEMBERED THAT, the deposition of
2 FOR THE COUNTY OF MULTNOMAH		2 DWAYNE L. LIDDELL was taken before Debra C. Symonds,
3		3 Registered Professional Reporter and Certified Shorthand
4 JEREMIAH SCOTT,)		4 Reporter for the State of Oregon, on Tuesday, November
5 Plaintiff,)		5 28, 2000, commencing at the hour of 10:30 a.m., in the
6 vs) No. 98-12-08640		6 Conference Room of the law firm of Dunn, Carney, Allen,
7 GREGORY LEE FOSTER, an)		7 Higgins & Tongue, 651 SW Sixth Avenue, Suite 1300, in
8 Individual; THE CHURCH OF)		8 the City of Portland, County of Multnomah, State of
9 JESUS CHRIST OF LATTER-DAY)		9 Oregon.
10 SAINTS, an unincorporated)		10 -:-
11 association, aka, the "Mormon)		11 APPEARANCES:
12 Church," THE CORPORATION OF)		12 DUNN, CARNEY, ALLEN, HIGGINS & TONGUE
13 THE PRESIDENT OF THE CHURCH OF)		13 By James M. Hillas and Tim Kosnoff, Attorneys at Law
14 JESUS CHRIST OF LATTER-DAY)		14 Appearin in behalf of the Plaintiff
15 SAINTS, a Utah corporation sole,)		15 BULLIVANT, HOUSER, BAILEY
16 CORPORATION OF THE PRESIDING)		16 By David A. Ernst
17 BISHOP OF THE CHURCH OF JESUS)		17 KIRTON & McCONKIE
18 CHRIST OF LATTER-DAY SAINTS,)		18 By Randy T. Austin
19 a Utah corporation sole,)		19 Attorneys at Law
20 Defendants.)		20 Appearin in behalf of the Church Defendants
21		21 KILMER, VORHEES & LAURICK
22 DEPOSITION OF DWAYNE L. LIDDELL		22 By Jeffrey M. Kilmer, Attorney at Law
23 Taken in behalf of the Plaintiff		23 Appearin in behalf of Defendant Foster
24		24
25 Tuesday, November 28, 2000		25 Also present: Lisa Thomas
Page 2		Page 4
1 EXHIBIT DESCRIPTION		1 DWAYNE L. LIDDELL
2 6 Amended request for designation of witnesses		2 was thereupon produced as a witness in behalf of the
3 In the case of Jane Doe vs Raleigh General		3 Plaintiff and, having been first duly sworn on oath, was
4 Hospital		4 examined and testified as follows:
5		5
6 (Exhibit attached hereto)		6 EXAMINATION
7		7 BY-MR. KOSNOFF:
8 Q. Please state your name and spell your last		8 Q. Please state your name and spell your last
9 name.		9 name.
10 A. Dwayne L. Liddell, L I D D E L L .		10 A. Dwayne L. Liddell, L I D D E L L .
11 Q. Mr. Liddell, could you give us an address for		11 Q. Mr. Liddell, could you give us an address for
12 the record?		12 the record?
13 A. Would you like my business or home?		13 A. Would you like my business or home?
14 Q. Whatever you'd prefer to give.		14 Q. Whatever you'd prefer to give.
15 A. 50 East North Temple, Salt Lake City, Utah,		15 A. 50 East North Temple, Salt Lake City, Utah,
16 84150.		16 84150.
17 Q. What is your current place of employment?		17 Q. What is your current place of employment?
18 A. I'm employed by the Corporation of the		18 A. I'm employed by the Corporation of the
19 Presiding Bishop of the Church of Jesus Christ of		19 Presiding Bishop of the Church of Jesus Christ of
20 Latter-Day Saints.		20 Latter-Day Saints.
21 Q. And that's a Utah corporation?		21 Q. And that's a Utah corporation?
22 A. Utah corporation sole, S O L E .		22 A. Utah corporation sole, S O L E .
23 Q. Could you describe your position there and		23 Q. Could you describe your position there and
24 your responsibilities?		24 your responsibilities?
25 A. I am the director of risk management in the		25 A. I am the director of risk management in the

DWAYNE L. LIDDELL - 11/28/00

SCOTT V FOSTER, et al.

Page 5	Page 7
<p>1 Risk Management Division. My responsibilities are risk 2 management.</p> <p>3 Q. To whom do you report? 4 A. I report to the managing director of the 5 Finance Department, M. Ferrell Benson.</p> <p>6 Q. With respect to your responsibilities as 7 director of the Risk Management Division, -- 8 A. Yes, sir.</p> <p>9 Q. -- how many employees or individuals report to 10 you? 11 A. We have approximately 24 full-time equivalent 12 head count in the Risk Management Division.</p> <p>13 Q. Could you trace for us your educational 14 background? 15 A. Yes. I have a bachelor of science degree with 16 a major in accounting from the University of Utah.</p> <p>17 Q. And in what year did you get that degree? 18 A. 1962.</p> <p>19 Q. Could you discuss any advanced education or 20 training in the field of risk management that you've 21 received? 22 A. Yes. I've been to Sigma University at the 23 Wharton Graduate School, University of Pennsylvania. 24 I've attended numerous seminars, continuing education 25 classes, seminars and other type of educational</p>	<p>1 A. I'm in an unclassified position. I do receive 2 annual reviews.</p> <p>3 Q. Can you tell me what materials you have 4 reviewed in preparation for your deposition here today?</p> <p>5 A. I've had discussions with legal counsel, I 6 reviewed a deposition that I gave in West Virginia 7 briefly, and I reviewed a document purported to request 8 the subject matter of my deposition today.</p> <p>9 Q. Is it correct that you have testified in other 10 depositions in other cases? 11 A. Yes.</p> <p>12 Q. On how many occasions? 13 A. Over what period of time? 14 Q. Over the period of time that you've been 15 director. 16 A. Approximately six or seven.</p> <p>17 Q. Have you had occasion to testify in any courts 18 during that period of time? 19 A. Yes.</p> <p>20 Q. What courts? 21 A. West Virginia.</p> <p>22 Q. Was that the deposition you were referring to 23 a moment ago? 24 A. Yes, sir.</p> <p>25 Q. Have you had occasion to testify as a trial</p>
<p>1 pursuits. 2 Q. How long have you been the, I'm sorry again, 3 director or commissioner of the Risk Management 4 Division? 5 A. I've been the director a little over 15 years. 6 Q. And what job did you hold before that? 7 A. I was a consultant in public accounting. 8 Q. Did you work alone or were you with a firm? 9 A. No, I was a partner with an international 10 firm. 11 Q. How many years were you there? 12 A. I was in public accounting approximately 23 13 years. 14 Q. Prior to coming on board as director, had you 15 had any training or education in the field of risk 16 management? 17 A. Yes, I did considerable consulting with 18 insurance companies, other business enterprises in 19 connection with various facets of risk management. 20 Q. And are you a member of the Mormon Church? 21 A. Yes, sir. 22 Q. How long have you been a member? 23 A. All my life. 24 Q. And in your position as director, do you 25 receive performance reviews by your superiors?</p>	<p>1 witness in any courts? And by that I mean either a 2 judge or a jury trial context rather than a deposition. 3 I realize that there was a judge presiding over the 4 deposition in West Virginia. I'm getting at whether 5 there are any trials that you've testified in. 6 A. Since I've been the director of risk 7 management? 8 Q. Yes. 9 A. No. 10 Q. And have you testified in trials prior to 11 coming on board as the director? 12 A. Yes, sir. 13 Q. On how many occasions? 14 A. I don't recall. 15 Q. Can you discuss what your specific duties and 16 activities as director of risk management involve? 17 A. Yes. I'm responsible for the executive 18 management of risk within the Church of Jesus Christ of 19 Latter-Day Saints, an unincorporated association, and 20 the various affiliated legal entities that are 21 associated with the church. 22 Q. You mentioned before that the division is 23 within the Corporation of the Presiding Bishop. Does 24 your division provide risk management services to 25 entities outside of the Corporation of the Presiding</p>

DWAYNE L. LIDDELL - 11/28/00

SCOTT V FOSTER, et al.

Page 9	Page 11
<p>1 Bishop?</p> <p>2 A. Yes.</p> <p>3 Q. Could you identify those entities?</p> <p>4 A. That would be the Church of Jesus Christ of Latter-Day Saints, an unincorporated association, the Corporation of the President of the Church of Jesus Christ of Latter-Day Saints, a Utah corporation sole, and numerous other affiliated legal entities that are associated with either of those -- either three. That's not very good grammar. With any three of those organizations.</p> <p>12 Q. With respect to the other entities outside of those, could you identify those organizations associated with the Mormon Church?</p> <p>15 MR. ERNST: I'm not going to agree to let him answer those questions. It's not within the scope of the order.</p> <p>18 MR. HILLAS: Dave, for the record, I think that it would be permissible if Mr. Kosnoff is seeking to lay a foundation that the other entities associated with the CPB, COP or the unincorporated association are controlled or are interrelated with respect to risk management. I think it would be permissible to let him explore that.</p> <p>25 I respect your objection and I understand</p>	<p>1 So for that purpose, I think it would be appropriate to find out what his duties and responsibilities are, if that includes involvement in or providing of risk management services to entities beyond CPB, COP or the unincorporated association. I think that is squarely within the order.</p> <p>7 I agree that we would not be permitted to go into great detail about those other entities, but to at least find out what they are, how much, for example, percentage of the risk management services which are provided to organizations outside the COP, CPB or unincorporated association. I think that type of general inquiry would be within the scope of the order.</p> <p>14 MR. ERNST: Take it question by question. But remember this, at Page 42, remember that the judge said I want to understand his role as director of risk management, how he distinguishes between his role as director of risk management for the unincorporated association and his role for the corporations.</p> <p>20 MR. HILLAS: Agree. And I think -- That is exactly what she said --</p> <p>22 MR. ERNST: Right.</p> <p>23 MR. HILLAS: -- and we have no intent to skirt the judge's order, but I do believe that in the context of this, because there are, as we discovered yesterday,</p>
<p>1 where you're going, but I think that there is a permissible line of inquiry there that could be fairly read in the scope of the order. Do you want to take a break?</p> <p>5 MR. ERNST: Yeah. See, I have duties and responsibilities of risk manager, organizational structure of CPB. Let me let us think about it here for a second, see if we --</p> <p>9 MR. HILLAS: Sure.</p> <p>10 (Discussion off the record)</p> <p>11 MR. ERNST: See if we can't try this. I'm not going to let him answer questions about other entities that are not parties here unless they have something to do with allegations of or touches on the subject of child abuse.</p> <p>16 I think he can answer the question in a general way and provide you with information, but, for instance, we had this come up yesterday and the judge -- I'm not going to allow questions about these other entities that you listed before. I'm not going to let him answer questions about that. So I think --</p> <p>22 MR. HILLAS: Let me just point out, though, Item No. 4 on Page 4 of the order specifically does permit inquiry into the duties and responsibilities of the risk manager.</p>	<p>1 a number of related entities, for example the LDS Social Services now known as Family Services, --</p> <p>3 MR. ERNST: I think you can ask about that.</p> <p>4 MR. HILLAS: -- there's some leeway I think where we can stay within the scope and spirit of the order.</p> <p>7 MR. ERNST: Okay, I think we have a general understanding.</p> <p>9 MR. KOSNOFF: Rather than have you read back the question, I think I'm just going to put another question.</p> <p>12 Q. (By Mr. Kosnoff) As risk manager, you've indicated that you provide risk management services to certain church-related entities other than the Corporation of the President, Corporation of the Presiding Bishop.</p> <p>17 Do you provide risk management services, for example, to an entity called LDS Social Services?</p> <p>19 A. Now known as LDS Family Services, and the answer is yes.</p> <p>21 Q. It was formerly known as LDS Social Services?</p> <p>22 A. Correct.</p> <p>23 Q. And are there other entities that you provide risk management services to?</p> <p>25 A. Yes.</p>

DWAYNE L. LIDDELL - 11/28/00

SCOTT V FOSTER, et al.

Page 13	Page 15
<p>1 MR. ERNST: You can answer.</p> <p>2 Q. And what entities are those?</p> <p>3 MR. ERNST: I'm not going to let him answer</p> <p>4 that.</p> <p>5 MR. HILLAS: Well, Dave, I think we just went</p> <p>6 through. I mean, if you want to object and instruct him</p> <p>7 not to answer, we'll note it in the transcript and</p> <p>8 perhaps take it up later. But I think Mr. Kosnoff ought</p> <p>9 to be allowed to ask, for example, about the percentage</p> <p>10 of time or the relative amount of services and how they</p> <p>11 are allocated to entities beyond the three discussed</p> <p>12 explicitly.</p> <p>13 Q. (By Mr. Kosnoff) Mr. Liddell, could you break</p> <p>14 down, as best you can, the percentage of time that the</p> <p>15 Division of Risk Management spends providing services to</p> <p>16 the Corporation for the Presiding Bishop, the</p> <p>17 Corporation of the President, and the Unincorporated</p> <p>18 Association of the Mormon Church?</p> <p>19 A. I can't. We really don't tabulate that type</p> <p>20 of information.</p> <p>21 Q. Do you know why you, as an employee of the</p> <p>22 Corporation of the Presiding Bishop, would provide</p> <p>23 services to another corporation?</p> <p>24 A. To assist them in the management of risk.</p> <p>25 Q. And when you provide that service, is your</p>	<p>1 that funding comes?</p> <p>2 A. It comes through the Corporation of the</p> <p>3 Presiding Bishop, but where it begins, I do not know.</p> <p>4 Q. Just so that I am clear on this, is it your</p> <p>5 testimony then that in your budget, that is the budget</p> <p>6 of the division of which you're a director, you are</p> <p>7 allocated monies to provide risk management services to</p> <p>8 different entities such as the Corporation of the</p> <p>9 President, the Unincorporated Association of the Mormon</p> <p>10 Church, and, for example, LDS Social Services?</p> <p>11 A. Yes.</p> <p>12 Q. And do you know currently what that percentage</p> <p>13 formulation is?</p> <p>14 A. No.</p> <p>15 Q. Do you know who sets that percentage?</p> <p>16 A. No.</p> <p>17 Q. Do you participate in the preparation of your</p> <p>18 budget?</p> <p>19 A. Yes.</p> <p>20 Q. And are you assisted or is that something that</p> <p>21 you do yourself?</p> <p>22 A. No.</p> <p>23 Q. You're not assisted?</p> <p>24 A. The controller of our division handles our</p> <p>25 budgets.</p>
<p style="text-align: center;">Page 14</p> <p>1 company or your division paid or compensated for the</p> <p>2 delivery of those services to, for example, the</p> <p>3 Corporation of the President?</p> <p>4 A. No. To the taxable entities we would bill</p> <p>5 them for services rendered.</p> <p>6 Q. Same question with respect to the</p> <p>7 Unincorporated Association of the Mormon Church.</p> <p>8 A. No.</p> <p>9 Q. You would not bill them?</p> <p>10 A. No.</p> <p>11 Q. So those services are provided gratuitously?</p> <p>12 A. There's an allocation that allocates our total</p> <p>13 budget across the board to all organizations that we</p> <p>14 have responsibility for, but we do not bill them for</p> <p>15 individual services rendered as we do for the for-profit</p> <p>16 entities.</p> <p>17 Q. Where does your funding come from?</p> <p>18 A. The donations of members of the Church of</p> <p>19 Jesus Christ of Latter-Day Saints.</p> <p>20 Q. And are you saying that the donations of the</p> <p>21 members of the Church of Jesus Christ of Latter-Day</p> <p>22 Saints make those donations directly to the Corporation</p> <p>23 of the Presiding Bishop or to your division?</p> <p>24 A. I don't know.</p> <p>25 Q. Do you know from what entity source, if any,</p>	<p style="text-align: center;">Page 16</p> <p>1 Q. And then where does that budget then go once</p> <p>2 it's prepared?</p> <p>3 A. To the Finance Department.</p> <p>4 Q. And where does it go beyond that?</p> <p>5 A. I don't know.</p> <p>6 Q. Please define risk management.</p> <p>7 A. Risk management is the management of risk.</p> <p>8 Q. How does your office determine what is a risk?</p> <p>9 In other words, does your office have any guidelines?</p> <p>10 A. You asked two questions. I'll try to answer</p> <p>11 the first. A risk is any kind of an activity that can</p> <p>12 produce a loss to an organization.</p> <p>13 Q. And the second?</p> <p>14 A. Do we have any guidelines?</p> <p>15 Q. Yes.</p> <p>16 A. We have best practices and various internal</p> <p>17 documents that we utilize to define our mission and our</p> <p>18 responsibilities.</p> <p>19 Q. What are those documents that define your</p> <p>20 mission and your responsibilities?</p> <p>21 A. Our risk management manuals.</p> <p>22 Q. And who prepared those risk management</p> <p>23 manuals?</p> <p>24 A. We did. Our Risk Management Division prepared</p> <p>25 those manuals.</p>

DWAYNE L. LIDDELL - 11/28/00

SCOTT V FOSTER, et al.

<p style="text-align: right;">Page 17</p> <p>1 Q. Are they reviewed or approved by anyone else 2 within the Corporation of the Presiding Bishop?</p> <p>3 A. We may discuss their contents with our 4 leadership in the Finance Department. They would also 5 be reviewed by church auditing.</p> <p>6 Q. Same question only with respect to the Office 7 of the First Presidency.</p> <p>8 A. I don't understand your question.</p> <p>9 Q. Are the guidelines or the manuals, the mission 10 that you discussed, are any of those reviewed or 11 approved by anyone from the Office of the First 12 Presidency?</p> <p>13 A. No.</p> <p>14 Q. Are they reviewed by anybody outside of the 15 Corporation of the Presiding Bishop?</p> <p>16 A. I don't believe so.</p> <p>17 Q. How are risks made known to your office?</p> <p>18 A. By direct reports of risk. By our knowledge 19 of the Church of Jesus Christ of Latter-Day Saints, the 20 corporate entities, we become aware or people report to 21 us.</p> <p>22 Q. And is information collected by your division?</p> <p>23 A. Information with respect to what?</p> <p>24 Q. To various risks?</p> <p>25 A. To a certain extent, yes.</p>	<p style="text-align: right;">Page 19</p> <p>1 claim that we retain the risk on, we then would manage 2 that claim.</p> <p>3 Q. You're acquainted with a number of claims 4 alleging negligence in some form or another against the 5 church in the area of child sexual abuse?</p> <p>6 A. Yes.</p> <p>7 Q. Is that the type of claim that is retained 8 within your division or is it one that's referred out to 9 insurance?</p> <p>10 A. It is not retained in our division, nor is it 11 referred out to insurance.</p> <p>12 Q. What happens to it?</p> <p>13 A. Those claims are handled by Office of General 14 Counsel. We would provide support to that function, we 15 would establish reserves based on their determination, 16 and they would be responsible for the resolution of that 17 particular claim.</p> <p>18 Q. When you say "general counsel," are you 19 referring to general counsel of the Corporation of the 20 Presiding Bishop?</p> <p>21 A. I'm referring to Office of General Counsel for 22 the church and its affiliated legal enterprises.</p> <p>23 Q. Is the Office of General Counsel 24 organizationally within the Corporation of the Presiding 25 Bishop or the Corporation of the President? Where does</p>
<p style="text-align: right;">Page 18</p> <p>1 Q. How is it collected and maintained?</p> <p>2 A. We will set up claims that are asserted 3 against the -- I'm going to refer to the unincorporated 4 association as the church so I'm not confusing.</p> <p>5 Q. Good.</p> <p>6 A. Or I'll refer to the corporate entity. Claims 7 that are asserted against the church or one of the 8 corporate entities, we would set up a claim file with 9 respect to that claim or incident and we would establish 10 reserves, and we would monitor it or we would manage it 11 over the pendency of that particular claim or incident.</p> <p>12 Q. Does the church --</p> <p>13 A. I should correct that somewhat, because if 14 that is a claim where there is insurance, those files 15 would be maintained by our insurer or third-party 16 administrator, but we would have access to that 17 information.</p> <p>18 Q. What cases or claims are kept by your division 19 and which are referred to any insurance carriers?</p> <p>20 A. I don't really know what you mean by kept by 21 our division. You mean managed by our division?</p> <p>22 Q. Yes.</p> <p>23 A. If it's an insured program, it would be 24 referred to our insurance carrier, such as automobile 25 liability coverage. If it were a general liability</p>	<p style="text-align: right;">Page 20</p> <p>1 it fit in in the hierarchy of the church?</p> <p>2 A. It comes under the Corporation of the 3 President.</p> <p>4 Q. Under the Corporation of the President. So 5 just so I'm clear, the file is referred to that office 6 by your division?</p> <p>7 A. They may have received it initially or we may 8 have received it. In any event, for sexual abuse type 9 claims that you're referring to, they have the 10 responsibility for managing those particular claims at 11 the present time.</p> <p>12 Q. And do you have one contact person in 13 particular in these types of cases or claims in the 14 Office of General Counsel?</p> <p>15 A. We have several contacts.</p> <p>16 Q. Who is that?</p> <p>17 A. Elder Lance B. Wickman who is Office of 18 General Counsel for the church or it could be William 19 Atkin or it could be Boyd Black. It's generally Elder 20 Wickman.</p> <p>21 Q. Are there any other types of cases that are 22 handled in the manner that you've just described that 23 child sex abuse claims are handled?</p> <p>24 A. Yes.</p> <p>25 Q. What types of cases are those?</p>

DWAYNE L. LIDDELL - 11/28/00

SCOTT V FOSTER, et al.

Page 21	Page 23
<p>1 A. Cases that would have implications with 2 respect to the First Amendment. Claims which may have 3 implications with respect to specific church leaders or 4 that could have adverse or favorable publicity for or 5 against the church.</p> <p>6 Q. And is that something that you personally 7 assess before making the referral?</p> <p>8 A. If I felt that those implications -- If I were 9 the one to receive that particular claim and I felt that 10 those type of implications may be present that I've 11 testified to in the last question, I would certainly 12 discuss those with Office of General Counsel.</p> <p>13 Q. Does your division have excess liability 14 coverage for general liability claims such as child sex 15 abuse negligence claims?</p> <p>16 A. I'm not sure what you mean does our division 17 have excess. To insure our division?</p> <p>18 Q. Well, or however -- Well, strike that.</p> <p>19 There are certain risks that are retained by 20 the church?</p> <p>21 A. Referring to the unincorporated association --</p> <p>22 Q. Yes.</p> <p>23 A. -- or all of the entities?</p> <p>24 Q. All of the entities.</p> <p>25 A. Yes.</p>	<p>1 risk?</p> <p>2 A. We analyze risk. I'm not sure exactly what 3 you're referring to when you say quantify. We do 4 analyze risk by its severity and frequency which some 5 people refer to as quantifying of risk.</p> <p>6 Q. And why do you do that?</p> <p>7 A. One reason is to set reserves and establish 8 actuarially developed ultimates with respect to claims, 9 losses.</p> <p>10 Q. And what do you do to manage the risk that you 11 have quantified?</p> <p>12 A. We determine what risk we will retain and what 13 risk we will transfer through insurance coverages 14 generally.</p> <p>15 Q. And is your practice of referring certain 16 types of cases, as you've previously discussed, to the 17 Office of General Counsel, is that an example of a way 18 in which you have managed a certain risk?</p> <p>19 A. The way we have managed a certain risk?</p> <p>20 Q. Yes.</p> <p>21 A. In those instances, those risks or those 22 claims that we've referred to would be managed by Office 23 of General Counsel.</p> <p>24 Q. So the act of referring it to the Office of 25 General Counsel is not really an act of risk management?</p>
Page 22	Page 24
<p>1 Q. And are those risks maintained up to a certain 2 dollar amount, and then beyond that there is insurance 3 that covers any claim?</p> <p>4 A. Depends on the line of business and the 5 specific program involved.</p> <p>6 Q. With respect to the type of claim at issue 7 here, negligence in the area of child sex abuse, what 8 about in that instance?</p> <p>9 A. Are you asking the question is there a 10 retention by the church and then the purchase of excess 11 coverage with respect to that? Is that your question?</p> <p>12 Q. Yes.</p> <p>13 A. The answer is yes.</p> <p>14 Q. And what is the dollar amount at which that 15 coverage would kick in?</p> <p>16 MR. ERNST: I'm not going to let him answer 17 that question. I don't think it reasonably follows from 18 this order. She's really been -- made very clear that 19 she's not -- In my opinion, the judge has made clear 20 that she's not interested in hearing about amounts, 21 judgments, claims, and she several times in the 22 transcript said specific --</p> <p>23 MR. KOSNOFF: Okay, David, say no more.</p> <p>24 MR. ERNST: Thank you.</p> <p>25 Q. (By Mr. Kosnoff) Does your office quantify</p>	<p>1 A. I don't think that's an accurate statement.</p> <p>2 It's a function within the Risk Management Division so 3 it would certainly come under risk management.</p> <p>4 Q. But would that be a way in which you manage a 5 risk that you have previously quantified?</p> <p>6 A. Are you talking about the Risk Management 7 Division or are you talking about one of the church 8 organizations in general?</p> <p>9 Q. Both.</p> <p>10 A. Which would you like me to answer first?</p> <p>11 Q. Take your pick.</p> <p>12 A. With respect to the Risk Management Division, 13 we would manage risk generally in the way that I've 14 outlined, by determining the risk, determining the 15 levels of insurance coverage for that particular type of 16 risk if we desire or determine that we will transfer 17 that risk to an insurance company or retaining the risk 18 ourselves. There are numerous activities that go on in 19 the church and its affiliated legal enterprises in the 20 management of risk such as safety, loss control, and so 21 forth.</p> <p>22 Q. Now, you've testified previously that part of 23 the functions of your division are to reduce risk as 24 much as possible for those entities that you serve.</p> <p>25 A. Certainly it's our interest to reduce risk,</p>

DWAYNE L. LIDDELL - 11/28/00

SCOTT V FOSTER, et al.

Page 25	Page 27
<p>1 but we operate in a different type of an organization 2 that most risk managers operate in, in that we, the 3 church, is an ecclesiastical organization that has 4 tenets, teachings, practices that operate within the 5 church organization and structure. It's our 6 responsibility in making suggestions or in consulting 7 with those organizations to manage the risk within those 8 tenets and those parameters. We do not have authority, 9 nor do we take authority, to try to force or coerce or 10 in any way set aside those tenets, doctrines and 11 principles.</p> <p>12 Q. And is that different than the way a risk 13 management division would operate in a different context 14 such as with a corporation -- a nonreligious entity?</p> <p>15 A. A for-profit entity?</p> <p>16 Q. A for-profit entity?</p> <p>17 A. I believe so, because there the interest is in 18 shareholders and earnings per share, cash flow, and 19 managing risk in a way that does not diminish or provide 20 severe fluctuations that would bear upon the 21 stockholders' earnings per share and so forth.</p> <p>22 Q. Are there other risks that you have to manage 23 by virtue of the fact that you're operating within a 24 religious organization that you might not have to manage 25 if you were not in that context?</p>	<p>1 earnings per share?</p> <p>2 A. Well, I think our responsibility is more in 3 preservation of resources than it is in -- since we have 4 no earnings per share or reports to shareholders, that 5 doesn't become an issue.</p> <p>6 Q. So that I understand then, a risk manager for, 7 say, Ford Motor Company is not then interested in 8 approaching risk management with a goal of preserving 9 the resources of Ford Motor Company?</p> <p>10 A. I don't think that's a true statement.</p> <p>11 Q. What about it is untrue?</p> <p>12 A. I would believe he would be interested in 13 that. My comments were that his primary interest would 14 be focusing on earnings per share and cash flow, things 15 that dilute shareholder value.</p> <p>16 Q. How do you know if a risk is reduced or not?</p> <p>17 A. When the occurrence of that risk is 18 diminished.</p> <p>19 Q. And how do you measure that?</p> <p>20 A. You measure it in several different ways. The 21 number of claims that are asserted in that particular 22 line of business from one period to another, provided 23 that they're trended and developed so that you have 24 comparable data, would be one way.</p> <p>25 Q. In the area of child sex abuse claims and</p>
Page 26	Page 28
<p>1 A. I think the answer to that question would be 2 yes.</p> <p>3 Q. What comes to mind?</p> <p>4 A. The organization itself, the free exercise of 5 religion that's granted under the constitution, I think 6 that's quite a bit different than other organizations 7 would have.</p> <p>8 Q. Anything else?</p> <p>9 A. I could certainly think about it for a while, 10 but I'm sure that would be the -- because it is a 11 different type of an organization, because it is a group 12 of members of an unincorporated association practicing 13 religion, it would certainly be different than a 14 business enterprise manufacturing a product, per se.</p> <p>15 Q. A risk manager for a for-profit organization, 16 one of his goals is to preserve the assets and perhaps 17 reputation of the corporation?</p> <p>18 A. I'm sure that would be, but that would not be 19 as significant a goal, in my opinion, as cash flow and 20 earnings per share and developing programs that equalize 21 earnings per share so that there are not severe 22 fluctuations that would cause diminution in stockholder 23 value.</p> <p>24 Q. And how might those practices then differ if 25 the principal concern was equalizing cash flow and</p>	<p>1 litigation against the church, do you track that risk by 2 collecting data?</p> <p>3 A. We track it within all general liability 4 claims so that we're looking at total general liability 5 claims as opposed to specific components of general 6 liability claims.</p> <p>7 Q. And in what form is that data kept in your 8 office?</p> <p>9 A. We have that in various databases that -- 10 either that are -- Are you talking about overall 11 generally for all general liability claims?</p> <p>12 Q. Let's talk about general and then specifically 13 with respect to child sex abuse claims.</p> <p>14 A. We would track that data from our claims 15 files, our databases that would have information in them 16 concerning those claims. If others in certain areas 17 handled those claims, we would have access to their 18 databases which we could then download into our 19 database.</p> <p>20 Q. What other -- Well, in this case what other 21 entities are we talking about when you say other 22 entities' databases?</p> <p>23 A. Insurance carriers, third-party 24 administrators.</p> <p>25 Q. What about the Office of General Counsel for</p>

DWAYNE L. LIDDELL - 11/28/00

SCOTT V FOSTER, et al.

Page 29	Page 31
<p>1 the church and its associated outside counsel?</p> <p>2 A. We do not access their databases.</p> <p>3 Q. Do you access or have access to any data or</p> <p>4 information from them?</p> <p>5 A. We maintain the databases for the claims which</p> <p>6 they are responsible for.</p> <p>7 Q. And that would consist of a claim file?</p> <p>8 A. Yes.</p> <p>9 Q. And what would be in that claim file?</p> <p>10 A. If it's a hard copy claim file, it could have</p> <p>11 a copy of the summons and complaint, it could have a</p> <p>12 copy of the various legal filing documents. In our</p> <p>13 electronic file we would maintain reserves, establish</p> <p>14 reserves, and at the request of Office of General</p> <p>15 Counsel, we would adjust those reserves as they deemed</p> <p>16 appropriate.</p> <p>17 Q. How do you use the documents that are in your</p> <p>18 claim file to track the risk so that you can determine</p> <p>19 whether or not the risk has been reduced or not?</p> <p>20 A. Are you referring to a hard copy claim file?</p> <p>21 Q. I'm referring to whatever data that you</p> <p>22 maintain or retain within your division, whether it be</p> <p>23 the hard copy claim file or anything else.</p> <p>24 A. Okay. Would you mind repeating that question?</p> <p>25 I think I've lost the first part of it.</p>	<p>1 A. Are you talking about loss ultimates again?</p> <p>2 Q. Well, perhaps we --</p> <p>3 A. You keep using the term "risk ultimates."</p> <p>4 Q. Why don't we try to get our definitions</p> <p>5 straight because maybe I don't understand and this is</p> <p>6 not my field.</p> <p>7 Is there a distinction between a risk ultimate</p> <p>8 and a loss ultimate?</p> <p>9 A. I'm not sure what a risk ultimate is. I'm</p> <p>10 talking about loss ultimates. So there would be</p> <p>11 apparently in my mind.</p> <p>12 Q. Mr. Liddell, do you have a copy of your</p> <p>13 deposition testimony in the West Virginia case with you?</p> <p>14 A. No.</p> <p>15 MR. KOSNOFF: Do you have it with you, David?</p> <p>16 MR. ERNST: I do not. I don't.</p> <p>17 MR. HILLAS: Do you want a copy of it?</p> <p>18 MR. KOSNOFF: Let me try and work through this</p> <p>19 on my copy. We'll make a copy of this at the break.</p> <p>20 Q. (By Mr. Kosnoff) I certainly want to show it</p> <p>21 to you, if possible, but it may not be necessary. I</p> <p>22 want to ask you, you recall testifying at that</p> <p>23 deposition back in October of 1999 --</p> <p>24 A. I do.</p> <p>25 Q. -- in Doe versus Raleigh General Hospital and</p>
Page 30	Page 32
<p>1 Q. Okay. What I would like to know is how you</p> <p>2 use, starting with the hard copy claim file, the</p> <p>3 documents that you've just discussed to compile data</p> <p>4 which will help you know whether risk has been reduced</p> <p>5 or not.</p> <p>6 A. As I testified before, we actuarially develop</p> <p>7 claim and loss ultimates which are then compared from</p> <p>8 period to period where we can look at trend analysis and</p> <p>9 so forth with respect to those lines of business.</p> <p>10 Q. Could you tell us what your understanding is</p> <p>11 of a risk ultimate?</p> <p>12 A. I think I referred to a loss ultimate.</p> <p>13 Q. Yes.</p> <p>14 A. Is that what you're referring to?</p> <p>15 Q. Yes.</p> <p>16 A. That is taking the case base reserves that are</p> <p>17 established for a particular claim or loss, actuarially</p> <p>18 then trending and developing that information to compute</p> <p>19 incurred but not reported data, combining those</p> <p>20 elements, and coming to an overall estimate of what the</p> <p>21 actual total loss, if you will, will be with respect to</p> <p>22 that claim or loss over its life.</p> <p>23 Q. Do you, and when I say you I mean your</p> <p>24 division, do you use risk ultimates in comparison to the</p> <p>25 costs of preventive action?</p>	<p>1 church defendants?</p> <p>2 A. Yes.</p> <p>3 Q. And the plaintiff's counsel asked you a series</p> <p>4 of questions, and I'd just like to read to you a couple</p> <p>5 of questions and answers.</p> <p>6 MR. ERNST: If you're going to ask him a</p> <p>7 number of questions, I think it's fair that he be able</p> <p>8 to see it.</p> <p>9 MR. KOSNOFF: And I will if it would help him.</p> <p>10 Q. (By Mr. Kosnoff) Question, let's start with</p> <p>11 general categories. Is that done in your office?</p> <p>12 Answer, we do analysis on risk ultimates using</p> <p>13 actuaries and we review those from period to period.</p> <p>14 Question, what do you mean by, quote, risk</p> <p>15 ultimates and actuaries?</p> <p>16 Answer, in order to understand current data</p> <p>17 and compare it with prior periods, one cannot just take</p> <p>18 raw data, one must actuarially develop and trend the</p> <p>19 data so that it will be similar with data from prior</p> <p>20 periods so that it's on the same basis.</p> <p>21 In that deposition apparently you used the</p> <p>22 term "risk ultimates." Do you recall what you meant by</p> <p>23 that term?</p> <p>24 A. I would have been referring to loss ultimates</p> <p>25 if I used it.</p>

DWAYNE L. LIDDELL - 11/28/00

SCOTT V FOSTER, et al.

<p style="text-align: right;">Page 33</p> <p>1 Q. I'll try and use loss ultimates. 2 A. It doesn't matter, it's fine. 3 Q. Do you use loss ultimates in comparison to the 4 costs of preventive action? 5 A. Not specifically, we do not, because a loss 6 ultimate would be the ultimate estimate of what that 7 loss would produce over time. 8 Q. Let me refer you again to this deposition in 9 West Virginia. You were asked the question, and do you 10 compare the -- once you ascertain the risk ultimate, 11 that is the ultimate cost of a particular risk, do you 12 compare that to the cost of taking some action to 13 prevent similar losses in the future? 14 Answer, we have not arrived at that state yet. 15 A. That's correct. 16 Q. Do you recall that question and answer? 17 A. Absolutely. 18 Q. What did you mean by that when you said, "We 19 have not arrived at that state yet"? 20 A. We do not have our risk management information 21 system to a point that we can do that. 22 Q. And why is that? 23 A. That's not yet developed. 24 Q. Do you know whether there is anything that 25 would prevent you from doing that?</p>	<p style="text-align: right;">Page 35</p> <p>1 Q. And again, going back to your office, we've 2 talked about the hard file which contains a copy of the 3 complaint and summons and some sort of statement 4 regarding reserves? 5 A. No, there's not a statement in the hard file 6 concerning reserves. That's an electronic database. 7 Q. What other kind of information or data is 8 compiled in your office that would enable you to know 9 whether or not a risk is serious enough to take 10 preventive or corrective action? 11 A. It would generally be loss runs or, for 12 instance, if you take automobile liability claims, by 13 looking at loss ultimates in automobile liability claims 14 from period to period, we'd be able to analyze, 15 understand trends, and see if additional corrective 16 action should be taken with respect to drivers in our 17 fleet, to review of accidents specifically, or if 18 certain areas seem to be incurring accidents at a higher 19 rate than other areas, we then would look into that 20 further and suggest potential type of safety tips or 21 other kinds of things that may be necessary. 22 Q. How about in child sex abuse cases? 23 A. We do not, as the Risk Management Division. 24 Q. I'd like to clarify that last response, if I 25 could. Are you saying that you have not developed</p>
<p style="text-align: right;">Page 34</p> <p>1 A. Yes, our system is not developed to that 2 point. We're in the process of that development 3 presently, and in the future we would be able to do 4 studies similar to that. 5 Q. Have you developed criteria for determining 6 whether a risk is serious enough to take preventive or 7 corrective action? 8 A. Are you referring to us as a Risk Management 9 Division or are you referring to a corporate entity or 10 are you referring to the church? 11 Q. Well, I'm not sure so let's try all three. 12 A. Okay. 13 Q. Let's start first with you as a division. 14 A. Would you repeat the question, please? 15 MR. KOSNOFF: Would you repeat the question? 16 (Reporter read as requested) 17 A. I think we would know whether or not a risk 18 was serious enough. Have we developed criteria. I 19 think we would know with our experience whether or not a 20 risk was serious enough that various preventive action 21 should be taken in certain lines of business where risks 22 may be significant or losses may be significant. 23 Q. How would you know -- just know that? 24 A. By the review of the loss ultimates or other 25 claims data.</p>	<p style="text-align: right;">Page 36</p> <p>1 criteria for determining whether a risk is serious 2 enough to take preventive or corrective action in child 3 sex abuse cases? 4 A. I'm saying that we do that in all general 5 liability claims. In addition to that, in the area of 6 child sexual abuse, child sexual abuse or other sexual 7 abuse is deemed to be a sin within the church. Those 8 actions are taken by ecclesiastical leaders according to 9 church doctrine and principles. 10 Q. And does the declaration of an activity as a 11 sin reduce its risk of occurrence? 12 MR. ERNST: I object to the use of the words 13 "declaration" and "activity." Those haven't been 14 defined and I don't believe that was his testimony at 15 all. It's not an activity, it's a belief. 16 Q. Let me rephrase the question. I'm trying to 17 understand your last response, I'm not trying to be 18 impertinent. But in the context of our dialogue here, 19 you indicated that church leaders have declared or 20 asserted that child sex abuse is a sin, and I'm trying 21 to understand what that has to do with developing 22 criteria to reduce risk. 23 A. I think that has a lot to do with criteria, as 24 you define it. Sexual abuse is a moral transgression. 25 It's dealt with in an ecclesiastical manner. According</p>

DWAYNE L. LIDDELL - 11/28/00

SCOTT V FOSTER, et al.

<p style="text-align: right;">Page 37</p> <p>1 to Scripture, according to revelation from our leaders, 2 and according to the tenets of the church, that's a 3 risk, therefore, in the church that's managed by 4 ecclesiastical leaders in their calling and 5 responsibility as an ecclesiastical leader. It's not 6 like an automobile accident where two cars are involved 7 in an automobile accident where, according to various 8 legal premises, there may be negligence involved. 9 Certainly a different thing.</p> <p>10 Q. Mr. Liddell, as the director of the Risk 11 Management Division with the responsibilities that you 12 have, do you believe that the church, the unincorporated 13 association, and its leaders have developed criteria or 14 policies which are adequate to respond to the risk 15 ultimates that you've assessed in these cases?</p> <p>16 A. I believe that the organization of the church, 17 that its principles, that its teachings, that its 18 embodiment in striving to become more like Jesus Christ 19 in its organizational structure, in its leaders, in the 20 responsibilities that ecclesiastical leaders have, the 21 answer would be yes.</p> <p>22 Q. So would it be fair to say then that, in your 23 professional opinion, the actions that the leadership of 24 the Mormon Church has taken on this subject are 25 sufficient and reasonable under the circumstances as you</p>	<p style="text-align: right;">Page 39</p> <p>1 A. Pardon? 2 Q. You're saying with church leadership -- 3 A. With church leadership. 4 Q. Have you participated in discussions either in 5 the offices of Kirton McConkie or elsewhere with leaders 6 of the Mormon Church regarding preventive action or 7 actions designed to reduce risk of child sex abuse 8 occurring?</p> <p>9 A. I have been in those type of meetings where 10 the doctrines, the principles, the training of 11 ecclesiastical leaders, the establishment of a help line 12 have been discussed.</p> <p>13 Q. And which church leaders were present during 14 those discussions?</p> <p>15 MR. ERNST: You know, I'm not going to let 16 him -- These are attorney-client discussions, as it's 17 been set out to me. I'm not going to let him answer 18 attorney-client discussions. It's also not in this 19 order. I'm giving you a very wide berth today again on 20 this order.</p> <p>21 MR. HILLAS: Well, Dave, for the record, I 22 would say No. 12 permits inquiry into all policies, 23 procedures and practices relating to the management of 24 risk associated with sex abuse of children within the 25 Mormon Church.</p>
<p style="text-align: right;">Page 38</p> <p>1 see them as the risk manager? 2 A. For the church, the answer is yes. 3 Q. For its members? 4 A. Absolutely. 5 Q. For the Risk Management Division of the 6 Corporation of the Presiding Bishop? 7 A. I'm not sure how that question relates. 8 Q. And have you personally consulted with your 9 leaders, that is the leaders of the church, on this 10 subject? 11 A. Of sexual abuse? 12 Q. Yes. 13 A. No. 14 Q. You have never consulted with any individual 15 leader from the Quorum of the 12 Apostles or the Office 16 of the First Presidency or the general authorities? 17 A. With respect to the programs or with respect 18 to claims? 19 Q. Let's start first with the programs. 20 A. I have not. 21 Q. Let's talk about claims then. 22 A. I have been in meetings with Office of General 23 Counsel or Kirton McConkie when claims have been 24 discussed with church leadership. 25 Q. With church leadership present?</p>	<p style="text-align: right;">Page 40</p> <p>1 MR. ERNST: Okay. The question I believe was 2 who was there. I think that's fine, but don't ask about 3 the discussions, please. 4 Q. (By Mr. Kosnoff) What church leaders have you 5 consulted with with respect to claims? 6 A. I think we're talking about what meetings have 7 I attended when those leaders, along with legal counsel, 8 were there. 9 Q. Yes, right. 10 A. Is that the question? 11 Q. Yes. 12 A. Members of the first presidency and the 13 presiding bishopric. 14 Q. Approximately when were those discussions? 15 A. Concerning claims, various times. 16 Q. Are there regular meetings that you have with 17 church leaders to discuss claims and risk issues related 18 to child sex abuse? 19 A. No. 20 Q. Is there any kind of committee that meets 21 regularly or has met at all to discuss these issues that 22 you've participated in? 23 A. No, other than -- well, other than the help 24 line committee. 25 Q. And what is the help line committee?</p>

DWAYNE L. LIDDELL - 11/28/00

SCOTT V FOSTER, et al.

Page 41	Page 43
<p>1 A. It's a group of people from Kirton McConkie, 2 LDS Family Services, and myself from the Risk Management 3 Division who meet regularly to provide assistance to 4 ecclesiastical leaders who have called in on the help 5 line.</p> <p>6 Q. How many times has that committee met?</p> <p>7 A. It's scheduled to meet every two weeks. It 8 hasn't always met on that schedule.</p> <p>9 Q. Do the meetings take place at a particular 10 location regularly?</p> <p>11 A. Usually, yes.</p> <p>12 Q. And where is that?</p> <p>13 A. At LDS Family Services' office.</p> <p>14 Q. And what is the purpose of those meetings?</p> <p>15 A. As I testified, it's to provide help and 16 assistance to ecclesiastical leaders who have called in 17 on the help line.</p> <p>18 Q. Can you identify the individuals that 19 regularly attend those meetings?</p> <p>20 A. By name?</p> <p>21 Q. Please.</p> <p>22 A. Myself, Randy Austin from Kirton McConkie, 23 Merrill Nelson from Kirton McConkie, Alan Gundry from 24 LDS Family Services, and there generally are some 25 representatives there from certain departments such as</p>	<p>1 Q. There are others?</p> <p>2 A. Yes.</p> <p>3 Q. Who else, to your knowledge, answers the help 4 line?</p> <p>5 A. I don't know all of their names, but I know 6 legal counsel mans the help line when there's legal 7 questions involved, Merrill Nelson. I'm sure that Randy 8 Austin does the same. I'm sure there's other people who 9 fill in when Mr. Gundry is not available. I don't know 10 their names presently.</p> <p>11 Q. Do you know what Mr. Gundry's qualifications 12 are?</p> <p>13 A. I believe I testified, I believe he's a social 14 worker, counselor. I don't know his background more 15 than that.</p> <p>16 MR. KILMER: While you're hesitating, what is 17 our situation for lunch?</p> <p>18 MR. KOSNOFF: As soon as you're hungry, Jeff, 19 we're going to break.</p> <p>20 MR. KILMER: Well, are we going to go into 21 like one or two o'clock before we break or what are we 22 going to do since we got started late?</p> <p>23 MR. ERNST: He's had a long morning. 24 (Discussion off the record)</p> <p>25 Q. (By Mr. Kosnoff) With regard to sex abuse</p>
<p>1 the missionary department on an ad hoc basis, and most 2 of those, though, do attend regularly.</p> <p>3 Q. Mr. Gundry -- Who is Mr. Gundry?</p> <p>4 A. He is employed by LDS Family Services.</p> <p>5 Q. What is his relationship to the help line?</p> <p>6 MR. ERNST: You know, we did go over that in 7 some length yesterday so you got what you wanted. Why 8 ask it again?</p> <p>9 MR. HILLAS: Well, --</p> <p>10 MR. ERNST: Is he going to try to get him to 11 say something different?</p> <p>12 MR. HILLAS: Well, Dave, I'm not asking the 13 questions, but I think Mr. Kosnoff is entitled to lay a 14 predicate to again discuss the relationship between 15 Mr. Liddell and his division and the services it 16 provides to the entities that are laid out in the order.</p> <p>17 Q. Mr. Gundry, it was represented to us, is an 18 individual who is assigned to staff the help line. Is 19 that your understanding?</p> <p>20 A. Yes, he's a social worker.</p> <p>21 Q. And Mr. Brown indicated that he's the sole 22 help line --</p> <p>23 MR. ERNST: That's not true.</p> <p>24 Q. -- person. Is that your understanding?</p> <p>25 A. No.</p>	<p>1 cases against the church, is it true, Mr. Liddell, that 2 it is the risk management's procedure that when you 3 receive a claim or complaint regarding such a case, that 4 you immediately contact the Kirton McConkie law firm?</p> <p>5 A. That was a procedure that we employed in the 6 past. We now contact Office of General Counsel if we 7 receive that claim. Generally speaking, they would 8 probably have received that claim before we would.</p> <p>9 Q. When did that procedure change?</p> <p>10 A. In the last year or two when Elder Wickman 11 became general counsel for the church.</p> <p>12 Q. And how long was it that you began the 13 procedure that when a claim or complaint came in, that 14 you immediately contacted the Kirton McConkie law firm?</p> <p>15 A. With respect to child sexual abuse cases?</p> <p>16 Q. Yes.</p> <p>17 A. As long as I can remember since I've been the 18 risk manager for the church and prior to that time.</p> <p>19 Q. To your knowledge, was that the practice 20 before you came on board as risk manager?</p> <p>21 A. I have no idea whether there were even any 22 child sexual abuse claims before I came on. There very 23 well might not have been any.</p> <p>24 Q. I'll take that as a no?</p> <p>25 A. I think it's an answer that I gave, that I'm</p>

DWAYNE L. LIDDELL - 11/28/00

SCOTT V FOSTER, et al.

Page 45	Page 47
<p>1 not sure there were any child sexual abuse claims 2 asserted against the church prior to 1985. If there 3 were, I'm sure that they would have contacted Kirton 4 McConkie who was general counsel for the church at that 5 time.</p> <p>6 Q. And when you refer cases, and again all my 7 questions are related to sex abuse cases, do you ask 8 Kirton McConkie to investigate the claim?</p> <p>9 A. It's the same answer I gave last time. Prior 10 to Office of General Counsel, we would have asked them 11 at that time to do that, but that goes back before that 12 time.</p> <p>13 Q. And are you aware of what Kirton McConkie does 14 when they receive the claim via the Office of General 15 Counsel? Do you know whether they investigate the 16 claim?</p> <p>17 MR. ERNST: I think you're touching here on a 18 privileged issue, work product, attorney-client. The 19 order says you can ask about the relationship between 20 the office of risk management and the general legal 21 counsel for the church, and I think this arguably comes 22 within that, but I'm not going to allow you to ask 23 questions that touch on the privilege.</p> <p>24 MR. HILLAS: Dave, I don't think there's any 25 intent to violate a privilege with respect to any actual</p>	<p>1 children, not the practices, but that's maybe a semantic 2 difference.</p> <p>3 MR. ERNST: Okay.</p> <p>4 MR. HILLAS: Anyway, why don't we go ahead and 5 see if we can't skirt the privilege.</p> <p>6 Q. (By Mr. Kosnoff) Just to clarify this issue, 7 is it correct that in other types of cases it's not 8 unusual for your division to investigate a claim?</p> <p>9 A. Other than child sexual abuse?</p> <p>10 Q. Yes.</p> <p>11 A. That's correct.</p> <p>12 Q. So investigation is a function of risk 13 management?</p> <p>14 A. It is a function of the Risk Management 15 Division, yes.</p> <p>16 Q. But with respect to child sex abuse cases that 17 are referred out that end up at the Kirton McConkie law 18 firm, the investigation -- it's expected that the 19 investigation will be done by them, if any. Is that 20 fair to say?</p> <p>21 A. I believe that's correct, if either them or 22 local counsel are retained to defend the church in that 23 particular action.</p> <p>24 Q. And risk management in that situation would 25 not undertake to conduct any investigation of the child</p>
Page 46	Page 48
<p>1 or pending claim, but I would again point out No. 12 2 which allows inquiry into all policies, procedures and 3 practices related to the management of risk.</p> <p>4 To the extent that Mr. Kosnoff's question is 5 directed to the Kirton and McConkie firm's involvement 6 in a risk management policy, procedure or practice, I 7 think perhaps a general inquiry would be permissible 8 subject to attorney-client privilege or work product 9 doctrine regarding a particular claim.</p> <p>10 MR. ERNST: I will say, though, that No. 12 11 talks about the procedures within the Mormon Church or 12 its corporate entities, and I think we would agree that 13 the law firm is not a corporate entity.</p> <p>14 MR. AUSTIN: You point out -- make a good 15 point. At some point, too, you get into, even in 16 general terms, talking about what's your general 17 approach. That may be a matter of legal advice. This 18 is how this ought to be approached potentially. I'm not 19 suggesting we're there, but --</p> <p>20 MR. HILLAS: Sure. And I think on a question- 21 by-question basis we are sensitive to the privilege that 22 you are entitled to assert.</p> <p>23 Dave, one clarification, though. At least as 24 I read it, I think that the modification in No. 12 that 25 says within the Mormon Church refers to sexual abuse of</p>	<p>1 sex abuse claim?</p> <p>2 A. That's correct.</p> <p>3 Q. And that is the practice, is it not, even when 4 no lawsuit has been filed?</p> <p>5 A. Where a claim has been asserted --</p> <p>6 Q. Yes.</p> <p>7 A. -- alleging child sexual abuse?</p> <p>8 Q. Yes.</p> <p>9 A. Yes.</p> <p>10 Q. Or even in situations where a claim for money 11 has not been expressly made, but it's been brought to 12 the attention of your division that a child has been 13 sexually abused and the church may be implicated in some 14 way.</p> <p>15 A. I'm not sure that's happened where we have 16 been the recipient of that type of information. That 17 type of information would generally come through the 18 help line.</p> <p>19 Q. Is it accurate that you developed this method 20 of dealing with these cases when you arrived as director 21 of risk management?</p> <p>22 MR. ERNST: Objection to the use of the word 23 "method," vague.</p> <p>24 Q. And by method I mean this method of dealing 25 with child sex abuse cases where they are referred over</p>

DWAYNE L. LIDDELL - 11/28/00

SCOTT V FOSTER, et al.

Page 49	Page 51
1 to Kirton McConkie or to the Office of General Counsel	1 and we're continuing in this same tradition of handling
2 and then to Kirton McConkie who then undertakes the	2 these types of claims. I have not discussed it directly
3 investigation in handling the file.	3 with them. I assume they would be aware of that and
4 A. That's been prevalent since I've been there.	4 concur with it.
5 Whether I'm the one that established that directly or	5 MR. KOSNOFF: Lunchtime, Jeff.
6 participated in that, I think it's a good way of	6 (Lunch Break: 11:54 a.m.)
7 managing that. I don't really recall whether I'm the	7
8 direct one or whether that was a practice that we	8
9 employed.	9
10 Q. Did you testify that it was you who developed	10
11 that when you arrived?	11
12 A. I may have.	12
13 Q. In West Virginia you were asked who developed	13
14 that methodology, and you said, "I did when I first	14
15 arrived."	15
16 A. Could have.	16
17 Q. And when you came up with that methodology,	17
18 did you do that on your own or did you collaborate with	18
19 others in developing this approach?	19
20 A. I would have collaborated with Kirton McConkie	20
21 at that time.	21
22 Q. Did you confer with church leaders about this	22
23 approach?	23
24 A. I could have. I don't recall.	24
25 Q. Was this approach recommended to you by anyone	25
Page 50	Page 52
1 or did you come up with the idea entirely by yourself?	1 Tuesday, November 28, 2000
2 A. I don't recall.	2 1:03 p.m.
3 Q. And what was the reason that you came up with	3
4 this method of dealing with these particular types of	4 EXAMINATION
5 claims, child sex abuse claims?	5 BY-MR. KOSNOFF (Cont.):
6 A. To maintain confidentiality was one of the	6 Q. Previously, Mr. Liddell, you testified
7 overriding factors.	7 that child sex abuse matters, if they come in to your
8 Q. And is it your view that this method has been	8 office, are referred out to the Office of General
9 an effective strategy for dealing with sex abuse claims?	9 Counsel. And I believe you said that one of the reasons
10 A. Yes.	10 that you -- or a reason that you use this methodology is
11 MR. ERNST: What do you mean, a legal	11 to maintain the confidentiality of those claims. Is
12 strategy?	12 that correct?
13 Q. A risk management strategy.	13 A. Yes.
14 A. Yes.	14 Q. What did you mean by maintaining the
15 Q. And is it also true that this strategy for	15 confidentiality of those claims?
16 dealing with child sex abuse matters has been approved	16 A. Maintaining, because legal counsel would have
17 by the highest leadership of the church?	17 privilege. The confidentiality could be assured for
18 A. Say that question again, please.	18 victims, for others that may surface in those types of
19 Q. Is it true that this effective strategy for	19 claims.
20 dealing with child sex abuse matters has been approved	20 Q. I'd like to clarify that response.
21 by the leadership of the church?	21 Is it your understanding or is it the belief
22 A. I would assume they have when they asked Elder	22 or position of your office that when claims are turned
23 Wickman to be general counsel and the practice remains.	23 over to the Office of General Counsel or to Kirton
24 Q. Could you clarify that last response for me?	24 McConkie, that whatever happens thereafter in connection
25 A. Simply that he reports to the first presidency	25 with those claims are enshrouded in attorney-client

DWAYNE L. LIDDELL - 11/28/00

SCOTT V FOSTER, et al.

Page 53	Page 55
<p>1 privilege and the work product rule?</p> <p>2 A. I think part of that is true. I'm more</p> <p>3 concerned about maintaining confidentiality of the</p> <p>4 potential victims or others involved in that. I know</p> <p>5 that Office of General Counsel and Kirton McConkle are</p> <p>6 very diligent to ensure that that happens. I know that</p> <p>7 they're very professional in their approach in handling</p> <p>8 these types of matters and well experienced. Therefore,</p> <p>9 we have confidence that these confidentialities will be</p> <p>10 maintained.</p> <p>11 Q. Is it your intent or belief that any documents</p> <p>12 or recorded information regarding these matters can be</p> <p>13 withheld from disclosure because they're not in your</p> <p>14 possession?</p> <p>15 A. That would be a legal determination, I'm sure.</p> <p>16 Q. What is your belief or understanding?</p> <p>17 A. I believe that my conversations with legal</p> <p>18 counsel on these matters would be deemed privileged and</p> <p>19 confidential. I'm not sure about documents that would</p> <p>20 be discovered in the ordinary pendency of litigation.</p> <p>21 I'm not an attorney.</p> <p>22 Q. Are you saying then that any documents or</p> <p>23 recorded information that may have been developed or</p> <p>24 kept at the offices of Kirton McConkle in connection</p> <p>25 with their investigation, it would not be incumbent upon</p>	<p>1 question.</p> <p>2 MR. ERNST: Object to the form, the use of the</p> <p>3 word "strategy."</p> <p>4 A. I believe, as I've testified, that certainly</p> <p>5 is one reason, to maintain confidentiality. Other</p> <p>6 reasons are, these are well-experienced people who have</p> <p>7 had significant experience in these matters and handle</p> <p>8 them very professionally and we're satisfied with that.</p> <p>9 Q. What does their experience and professionalism</p> <p>10 have to do with ensuring that any information that they</p> <p>11 learn about a claim is shielded from disclosure?</p> <p>12 A. Well, they're not going to violate -- they're</p> <p>13 not going to release that information at will. We're</p> <p>14 satisfied that they work in a confidential manner to</p> <p>15 protect the rights of victims and others who may be</p> <p>16 associated with sexual abuse. That's all I'm referring</p> <p>17 to with respect to that.</p> <p>18 Q. With respect to your handling of claims and</p> <p>19 lawsuits, where a request comes to you in connection</p> <p>20 with a lawsuit to produce documents associated with</p> <p>21 claims, do you respond to those requests by examining</p> <p>22 those documents and records that are in your files?</p> <p>23 A. Are you talking about sexual abuse claims?</p> <p>24 Q. Yes.</p> <p>25 A. Do I respond to those by examining documents</p>
<p style="text-align: center;">Page 54</p> <p>1 you to disclose if a legal request was made to you to</p> <p>2 disclose that information?</p> <p>3 MR. ERNST: I'm going to object. I think he's</p> <p>4 answered and these are legal issues and these certainly</p> <p>5 are not -- this is not covered in the order at all.</p> <p>6 Q. Go ahead and answer.</p> <p>7 MR. ERNST: Go ahead and answer this question,</p> <p>8 then I'd like you to move on.</p> <p>9 A. If I understand the question correctly, I</p> <p>10 believe that my discussions with Kirton McConkle would</p> <p>11 certainly be privileged and confidential. Anything they</p> <p>12 develop in connection with their investigations or</p> <p>13 otherwise, if a court determined that that was work</p> <p>14 product, it would be my belief that that would also be</p> <p>15 privileged and confidential.</p> <p>16 Q. And is it your thinking as part of your</p> <p>17 strategy that this information can be shielded from</p> <p>18 disclosure by virtue of this strategy?</p> <p>19 MR. ERNST: Objection. I'd ask you to move</p> <p>20 on. This is not covered in any way by the order.</p> <p>21 MR. KOSNOFF: Yeah, it is, Dave.</p> <p>22 MR. ERNST: No, it's not.</p> <p>23 Q. (By Mr. Kosnoff) Go ahead.</p> <p>24 MR. ERNST: He didn't say it was a strategy.</p> <p>25 Q. Well, we've talked -- Go ahead and answer the</p>	<p style="text-align: center;">Page 56</p> <p>1 in our files? If requested by legal counsel, yes.</p> <p>2 Q. And do you also produce relevant documents in</p> <p>3 the possession of Kirton McConkle?</p> <p>4 A. Do I produce those?</p> <p>5 Q. Yes.</p> <p>6 A. No.</p> <p>7 Q. Do you do anything to facilitate or attempt to</p> <p>8 facilitate their production by Kirton McConkle?</p> <p>9 A. You're talking very generally. If we have</p> <p>10 discussions and discuss documents that may be in their</p> <p>11 possession, we may have certain discussions with respect</p> <p>12 to those.</p> <p>13 Q. When someone has made a claim against the</p> <p>14 church in these kinds of cases, sex abuse cases, does</p> <p>15 anyone in your office make a search of past records for</p> <p>16 similar incidents that have occurred?</p> <p>17 A. As a matter of practice or in terms of a</p> <p>18 specific request?</p> <p>19 Q. As a matter of practice.</p> <p>20 A. No.</p> <p>21 Q. Does anyone in your office make an effort to</p> <p>22 make any type of findings or conclusions regarding the</p> <p>23 information that has been gathered regarding a child sex</p> <p>24 abuse claim?</p> <p>25 A. As a specific request or as a general</p>

DWAYNE L. LIDDELL - 11/28/00

SCOTT V FOSTER, et al.

Page 57	Page 59
1 practice?	1 Q. And have you evaluated it in terms of its
2 Q. As a general practice.	2 utility in the area of risk reduction?
3 A. No.	3 A. As I testified before, I think this is a
4 Q. With respect to specific claims, are any types	4 doctrinal type manual. It provides leaders help. I
5 of findings or conclusions made regarding the	5 have talked to some leaders and asked them if it was
6 information which has been gathered in a child sex abuse	6 helpful to them, in that context, but I haven't done any
7 claim or lawsuit?	7 studies or anything to see if there's some correlation
8 A. If legal counsel asks us to perform a certain	8 between what is said in that manual and what happens in
9 function, we would honor that request.	9 connection with number of claims outstanding or anything
10 Q. Does that typically happen?	10 of that nature.
11 A. No.	11 Q. Why not?
12 Q. Are any plans of action or proposals for	12 A. I didn't think it was appropriate.
13 remedial measures regarding reduction of child sexual	13 Q. You didn't think it was appropriate in what
14 abuse incidents involving the church ever prepared by	14 sense?
15 you or your office?	15 A. I believe, as I've testified, this is a
16 A. As such, no. We have reviewed documents as	16 document that provides assistance to ecclesiastical
17 requested, such as the manual Sexual Abuse Help for	17 leaders. There can be all kinds of things that can have
18 Ecclesiastical Leaders, and given any input we would	18 an effect on reduction of sexual abuse-type claims.
19 have had at that time. In addition, as I've testified	19 Q. Assuming this was not a document produced by
20 before, I sit on the help line committee.	20 ecclesiastical leaders for a church, would you regard it
21 Q. You mentioned the Helps for Ecclesiastical	21 as being an adequate tool in any risk reduction program
22 Leaders. Would that be Responding to Abuse, Helps for	22 directed at reducing child sex abuse?
23 Ecclesiastical Leaders?	23 A. I can't respond to that.
24 A. Yes.	24 MR. ERNST: Just a second. Objection, it's
25 Q. And you personally reviewed that?	25 hypothetical.
Page 58	Page 60
1 A. I did.	1 MR. KOSNOFF: Granted it's hypothetical, but
2 Q. Did you have any proposals for changes,	2 I'm still entitled to ask hypothetical questions.
3 additions, deletions?	3 MR. ERNST: Then I'm objecting to the form of
4 A. With respect to some grammatical comment is	4 the question.
5 all.	5 Q. (By Mr. Kosnoff) Go ahead and answer.
6 Q. And was that publication intended to be part	6 A. It would be pure conjecture. I have no basis
7 of your risk reduction efforts in this area?	7 to answer that question.
8 A. No.	8 Q. Have you received any training, attended any
9 Q. Did it have anything to do with risk	9 seminars, read any books regarding the nature of
10 reduction, in your opinion?	10 pedophilia?
11 A. Well, certainly it provided ecclesiastical	11 A. I have some knowledge on that. I have not
12 leaders help in fulfilling their callings and	12 been to any training sessions with respect to that.
13 responsibilities.	13 Over the years I may have read some articles in
14 Q. Would you call that a plan of action for risk	14 connection with that.
15 reduction?	15 Q. Have you read or done anything to acquaint
16 A. I don't know if I'd use those words, but	16 yourself with any underwriting standards or requirements
17 certainly it's a help to ecclesiastical leaders.	17 for churches generally by insurance companies --
18 Q. Do you consider it to be a remedial measure?	18 A. No.
19 MR. ERNST: Object to the form. Sounds like a	19 Q. -- In the -- Let me finish. In the area of
20 legal conclusion.	20 child sex abuse?
21 Q. Well, what role, if any, does the document	21 A. The answer is no.
22 Responding to Abuse, Helps for Ecclesiastical Leaders --	22 Q. You're not acquainted in any way with any of
23 A. I think it gives them guidelines and counsel	23 the underwriting requirements that insurance companies
24 on how to respond to those situations as described in	24 typically require of insureds seeking coverage?
25 that manual.	25 A. I have no knowledge on that subject.

DWAYNE L. LIDDELL - 11/28/00

SCOTT V FOSTER, et al.

Page 61	Page 63
<p>1 Q. Aside from the Helps for Ecclesiastical 2 Leaders, what other documents relevant to the issue of 3 child sex abuse and the reduction of child sex abuse 4 have you reviewed or had input into?</p> <p>5 A. The Church Handbook of Instructions.</p> <p>6 Q. Would that be the entire Handbook of 7 Instructions or certain portions?</p> <p>8 A. It's the entire Handbook of Instructions that 9 I would have had input to. I reviewed that before it 10 was published.</p> <p>11 Q. It's my understanding that that document 12 was -- that an updated edition was published in 1998?</p> <p>13 A. Yes.</p> <p>14 Q. And were there earlier editions that you 15 reviewed?</p> <p>16 A. No. Well, excuse me.</p> <p>17 Q. And by reviewed, I mean in your capacity as 18 risk manager.</p> <p>19 A. Absolutely. In that capacity, I don't recall 20 specifically. I believe I reviewed the '89 edition.</p> <p>21 Q. To your knowledge, was that the last previous 22 edition?</p> <p>23 A. I believe so, before the 1998 edition.</p> <p>24 Q. Mr. Liddell, have you yourself ever served as 25 a bishop or stake president?</p>	<p>1 A. No.</p> <p>2 Q. As risk manager, you have to respond to all 3 types of occurrences, I assume, including things like 4 slip and fall cases?</p> <p>5 A. Is that a question?</p> <p>6 Q. Yes.</p> <p>7 A. Yes.</p> <p>8 Q. And can you think of an example where, as a 9 result of what you regarded as an abnormally high number 10 of incidents, you took some kind of remedial action or 11 proposed some kind of remedial action that the church 12 take?</p> <p>13 A. Yes.</p> <p>14 Q. Can you give me an example?</p> <p>15 A. Yes, automobile accidents. The church has a 16 large fleet of vehicles. There was a large number of 17 missionary drivers. We have given significant input 18 into safety to help encourage 19 to 21 year olds in 19 missionary callings to drive safely.</p> <p>20 Q. And has that resulted in some sort of specific 21 plan of action?</p> <p>22 A. It has resulted in assisting those individuals 23 to become more conscious about their driving efforts.</p> <p>24 Q. And how is that done?</p> <p>25 A. Through establishment of accident review</p>
Page 62	Page 64
<p>1 A. I've served as a branch president in a student 2 ward which is the equivalent of being a bishop.</p> <p>3 Q. And in that capacity, did you have the 4 opportunity at that time to acquaint yourself with the 5 Handbook of Instruction as it existed back then?</p> <p>6 A. Yes.</p> <p>7 Q. What chapters in particular did you have input 8 into, if any?</p> <p>9 A. In the 1998 edition?</p> <p>10 Q. Yes.</p> <p>11 A. I reviewed most of the handbook, but in 12 particular the areas dealing with insurance, safety 13 requirements for activities, and scanned the other 14 sections.</p> <p>15 Q. Did you review Chapter 10 on church 16 discipline?</p> <p>17 A. I would have looked through that, yes.</p> <p>18 Q. Did you have any input into what was contained 19 in the '98 edition of that publication?</p> <p>20 A. No, I did not.</p> <p>21 Q. Did you make any recommendations regarding the 22 content of Chapter 10?</p> <p>23 A. No, I did not.</p> <p>24 Q. Did you see anything in Chapter 10 which 25 caused you concern in your capacity as a risk manager?</p>	<p>1 boards, of development of video presentations, and 2 teaching missionaries to be safer drivers.</p> <p>3 Q. Does that program have a name?</p> <p>4 A. It's just the automobile fleet program of the 5 church.</p> <p>6 Q. And has that remedial program been effective, 7 in your opinion?</p> <p>8 A. Not significantly.</p> <p>9 Q. With respect to the church's risk management 10 program related to the handling of child sex abuse 11 cases, do you have an opinion as to whether or not it's 12 effective?</p> <p>13 A. Yes.</p> <p>14 Q. And what is that opinion?</p> <p>15 A. I believe that the procedures that are 16 employed by the ecclesiastical leaders of the church and 17 the individuals who have been helped through that has 18 been a wonderful program.</p> <p>19 Q. You said in your deposition before in West 20 Virginia, you said that as risk manager for the church, 21 that you thought this was a wonderful way of risk 22 management.</p> <p>23 A. Absolutely.</p> <p>24 Q. And has the leadership of the Mormon Church 25 ever expressed to you any dissatisfaction with this</p>

DWAYNE L. LIDDELL - 11/28/00

SCOTT V FOSTER, et al.

Page 65	Page 67
<p>1 method of risk management?</p> <p>2 A. No.</p> <p>3 Q. In that West Virginia case --</p> <p>4 (EXHIBIT 6, MARKED)</p> <p>5 Q. Looking at Exhibit No. 6, Mr. Liddell, this</p> <p>6 document, do you recognize it?</p> <p>7 A. Yes.</p> <p>8 Q. This appears to be a true and correct copy of</p> <p>9 deposition Exhibit No. 2 in the Dwayne Liddell</p> <p>10 deposition of October 11, 1999; Is that correct?</p> <p>11 A. I believe it was an exhibit to my deposition,</p> <p>12 as I recall.</p> <p>13 Q. And it was an amended request for designation</p> <p>14 of witnesses that you were asked to review prior to your</p> <p>15 deposition. Do you recall that?</p> <p>16 A. I believe so.</p> <p>17 Q. And in your deposition you testified that you</p> <p>18 had reviewed it and that with respect to the first 32</p> <p>19 items, you were acquainted with those items.</p> <p>20 MR. ERNST: What number are we on for the</p> <p>21 order on this because this is talking about specific</p> <p>22 cases. She's made -- The judge made it very clear she's</p> <p>23 not going to let you do that.</p> <p>24 MR. KOSNOFF: I think I'll meet your objection</p> <p>25 here in a second.</p>	<p>1 yourself with any of these other matters?</p> <p>2 MR. ERNST: See, you haven't met my objection</p> <p>3 yet. This is not covered in this order.</p> <p>4 MR. KOSNOFF: I think again it goes to --</p> <p>5 MR. ERNST: To what?</p> <p>6 MR. KOSNOFF: To their practices, risk</p> <p>7 management practices.</p> <p>8 MR. ERNST: I disagree. The risk management</p> <p>9 practices by looking at a list of alleged claims or</p> <p>10 contentions in another case? The judge said I need --</p> <p>11 MR. KOSNOFF: Why don't we go off the record</p> <p>12 for a second.</p> <p>13 (Discussion off the record)</p> <p>14 MR. KOSNOFF: David, on this point I'll stop,</p> <p>15 leave it alone.</p> <p>16 MR. KILMER: What is your timetable looking</p> <p>17 like, Tim? Are you going to be most of the afternoon?</p> <p>18 MR. KOSNOFF: Well, I think that -- I think</p> <p>19 I'm going to try and finish in an hour.</p> <p>20 Q. (By Mr. Kosnoff) As risk manager, have you</p> <p>21 undertaken any examination of the policies of the Mormon</p> <p>22 Church with respect to its participation in the Boy</p> <p>23 Scout program?</p> <p>24 MR. ERNST: Boy, you know, we went over this</p> <p>25 at some length yesterday. Go ahead. Go ahead.</p>
Page 66	Page 68
<p>1 MR. ERNST: All right.</p> <p>2 Q. (By Mr. Kosnoff) Do you recall indicating that</p> <p>3 you recognized the first 32 but you didn't recognize the</p> <p>4 remaining items on the list?</p> <p>5 A. I don't think that was my testimony. I think</p> <p>6 I said I recognized the first 32 and there were a couple</p> <p>7 of others in here that I had some knowledge on, as I</p> <p>8 recall my testimony at that time.</p> <p>9 Q. With the remaining number, the numbers 33</p> <p>10 through I guess 101, you indicated that you had some</p> <p>11 familiarity with a few of those?</p> <p>12 A. No, I believe there was two of those that I</p> <p>13 had some knowledge of individuals that were mentioned in</p> <p>14 there, I believe. I believe, as I testified, and I</p> <p>15 don't remember the exact testimony, but as I testified,</p> <p>16 I had no knowledge of any of these.</p> <p>17 Q. And the first 32 you recognized as being</p> <p>18 lawsuits or claims, child sex abuse claims, that have</p> <p>19 been brought against the church?</p> <p>20 A. The church or one of the other affiliated</p> <p>21 legal entities, I believe.</p> <p>22 Q. My question is, with respect to the items that</p> <p>23 you testified back then in October of '99 that you</p> <p>24 didn't recognize or didn't have any familiarity with,</p> <p>25 have you or your office since gone back and acquainted</p>	<p>1 A. Would you say it one more time? I got</p> <p>2 distracted.</p> <p>3 MR. ERNST: Sorry.</p> <p>4 Q. Have you, as risk manager of your department,</p> <p>5 examined in any way the policies of the church in</p> <p>6 relation to its participation in the Boy Scouting</p> <p>7 program?</p> <p>8 A. Not as a specific assignment, but we do have a</p> <p>9 relationship with the Boy Scouts of America. We've had</p> <p>10 a number of discussions with the Boy Scouts of America</p> <p>11 over issues of risk management and have an ongoing</p> <p>12 relationship with them.</p> <p>13 Q. What has been your relationship as a risk</p> <p>14 manager with the Boy Scouts of America?</p> <p>15 A. I have met with some of those people from time</p> <p>16 to time. We have agreements between us for handling of</p> <p>17 claims and other kinds of things that result from scout</p> <p>18 activities, and that's been the subject of most of those</p> <p>19 meetings.</p> <p>20 Q. As a result of any of those meetings or</p> <p>21 communications, has there been or have there been any</p> <p>22 changes made in church policy?</p> <p>23 A. With our relationship with the Boy Scouts of</p> <p>24 America?</p> <p>25 Q. Yes.</p>

DWAYNE L. LIDDELL - 11/28/00

SCOTT V FOSTER, et al.

Page 69	Page 71
1 A. No.	1 that you had reviewed it as risk manager. Is that
2 Q. Has the Risk Management Department ever	2 right?
3 attempted to utilize any resources either of the	3 A. I may have reviewed it as a risk manager or as
4 Corporation of the Presiding Bishop, the unincorporated	4 a member of the church in an ecclesiastical position. I
5 association or the Corporation of the President or any	5 have reviewed it.
6 other church-related organizations to survey the extent	6 Q. What is the relationship between the church's
7 to which child sex abuse is occurring within the	7 child abuse risk reduction policies and procedures and
8 membership of the church?	8 the church's policies and procedures regarding church
9 A. Has the Risk Management Division?	9 discipline?
10 Q. Yes.	10 MR. ERNST: I'm going to object to the form.
11 A. No.	11 You said child abuse risk reduction procedures and I
12 Q. Are you aware of any such survey being done by	12 don't believe there's been any testimony on that term or
13 or on behalf of the church by anyone?	13 use so I object to the form.
14 A. No.	14 Q. I'll rephrase it.
15 Q. It's my understanding that the church and the	15 What is the relationship between the efforts
16 corporations, that none of them maintain a database or	16 of the church to reduce risk with respect to child sex
17 central registry of members or ex-members who have been	17 abuse and the church's policies and procedures regarding
18 accused of sexually abusing children. Is that correct?	18 church discipline?
19 A. I don't know.	19 A. They're all ecclesiastical matters that are
20 Q. Are you aware of any such?	20 founded in revelation and Scripture, In doctrine of the
21 A. I am not.	21 church, and in dealing by ecclesiastical leaders with
22 Q. Have you ever considered or investigated the	22 those issues.
23 possibility of maintaining such a database?	23 Q. Do you believe that the church policies are
24 A. No.	24 consistent with risk reduction efforts by your division
25 Q. Are you acquainted with whether or not the Boy	25 in the area of child sex abuse?
Page 70	Page 72
1 Scouts maintain a database of individuals who have been	1 A. I believe that we offer those under
2 rejected or dismissed as scout leaders as a result of	2 ecclesiastical policies, procedures, church doctrine,
3 child sex abuse?	3 tenets, and that's how we manage risk within those
4 A. Yes.	4 doctrinal matters.
5 Q. As a risk manager, what is your opinion of	5 Q. And my question again is, do you think that
6 that practice?	6 they are consistent or do you think that they are
7 A. I don't have any opinion with respect to that	7 inconsistent?
8 practice. That's a Boy Scout of America function.	8 A. I'm not sure I understand your question, but
9 Q. Have you ever considered adopting such a	9 that's how we deal, as risk managers, within those
10 system, a database or registry within the Division of	10 purviews, so they would be consistent.
11 Risk Management?	11 MR. KOSNOFF: Let me take a minute.
12 A. Have I?	12 (Break: 1:43-1:50)
13 Q. Yes.	13 Q. (By Mr. Kosnoff) I want to go back and just
14 A. No.	14 get a couple of clarifications on some things and then I
15 Q. Have others to you?	15 think we'll be close to wrapping up.
16 A. I don't know.	16 With respect to risk management services that
17 Q. Has risk management ever done any type of	17 are provided to the various entities that you provide
18 investigation or survey of local Salt Lake City social	18 those risk management services to, do you keep a record
19 workers, police, prosecutors and so forth to determine	19 within risk management? In other words, If you're
20 whether or not the church's reporting policies in the	20 providing risk management services to the unincorporated
21 area of child sex abuse are being complied with?	21 association, is a record kept that separates the
22 A. No.	22 unincorporated association out or likewise the other two
23 Q. You indicated earlier that you reviewed the	23 corporations?
24 Church Handbook of Instructions and that you were	24 A. I'm not sure what you mean is a record kept.
25 acquainted with the chapter on church discipline and	25 A record kept of our services?

DWAYNE L. LIDDELL - 11/28/00

SCOTT V FOSTER, et al.

Page 73	Page 75
<p>1 Q. Yes. Do you maintain some sort of record that 2 reflects for which entity you provided risk management 3 services and how much?</p> <p>4 A. I believe I've testified to that, that there 5 is a budget allocation that allocates costs to the 6 various affiliated legal entities, but we do not bill 7 them separately for services rendered, nor do we track 8 that.</p> <p>9 Q. And that's also true with respect to all 10 claims files?</p> <p>11 A. You mean all lines of business?</p> <p>12 Q. Yes.</p> <p>13 A. That's true.</p> <p>14 Q. I don't think this is going to field an 15 objection, but do you provide risk management services 16 to other entities other than LDS Social Services, 17 Corporation of the Presiding Bishop, Corporation of the 18 Presidency?</p> <p>19 A. And the church?</p> <p>20 Q. And the unincorporated association of the 21 church?</p> <p>22 A. Yes.</p> <p>23 Q. What other entities?</p> <p>24 MR. ERNST: Objection.</p> <p>25 Q. Again, the question is narrowed to the issue</p>	<p>1 Q. Correct.</p> <p>2 A. They would be only those entities which may be 3 part of a claim against such entities, and we perform 4 those in the same manner as we do for the Corporation of 5 the President, Corporation of the Presiding Bishop or 6 the Church of Jesus Christ of Latter-Day Saints, an 7 unincorporated association.</p> <p>8 Q. It's my understanding that with respect to 9 members of the church who are called to serve in 10 positions working with children, such as scouting, 11 primary programs, so forth, that it is not the practice 12 of the church to use a screening form or -- and by that 13 I mean a form in which the individual is asked to self- 14 disclose information about their background and possible 15 prior accusations of child sex abuse. Is that correct?</p> <p>16 A. That's correct.</p> <p>17 Q. As a risk manager, can you tell me why that 18 would not be a best practice for the Mormon Church?</p> <p>19 A. Because, as I've testified before, this is a 20 church that is founded upon religious tenets. It's 21 governed by ecclesiastical leaders, and that is not part 22 of the program.</p> <p>23 Q. If I were to ask you the same question with 24 respect to not maintaining a centralized database of 25 members who have been previously accused or disciplined</p>
Page 74	Page 76
<p>1 of sex abuse, not generally.</p> <p>2 A. The church operates in a number of 3 jurisdictions throughout the world. In some areas, such 4 as West Virginia, the church operated as a trust. So 5 there are other organizations other than the ones that 6 you've mentioned in your question where we have provided 7 service where the church operates in those areas under 8 another corporate structure or a specific corporate 9 structure that's developed that's not the Corporation of 10 the President or not the Corporation of the Presiding 11 Bishop but functions similar to those, but would be 12 specifically related to Great Britain or some other 13 place.</p> <p>14 Q. What is the relationship between those other 15 entities that you provide risk management services to in 16 child sex abuse cases? How are they related to the 17 Corporation of the President or the Corporation of the 18 Presiding Bishop?</p> <p>19 A. I misunderstood your prior question. You said 20 we provide child sexual abuse risk management services?</p> <p>21 Q. Yes.</p> <p>22 A. So it wasn't a general question as to 23 everything.</p> <p>24 MR. ERNST: No.</p> <p>25 A. Is that correct?</p>	<p>1 for child abuse, would your answer be the same?</p> <p>2 A. No, because if a member had been disciplined 3 for child abuse, his membership -- his or her membership 4 record would be flagged and that would travel with him 5 until an ecclesiastical leader felt that that flag 6 should be removed.</p> <p>7 Q. Tell me what you mean by flagged.</p> <p>8 A. Indicated that if that person moves into a 9 ward or a branch of the church, that then the bishop who 10 received that membership record from where he had 11 transferred from is to call that bishop or 12 ecclesiastical leader, branch president, and ascertain 13 why he should call and the circumstances concerning that 14 for material that he would disclose to him about that 15 individual so that that individual would not be called 16 to serve in a youth calling, for instance.</p> <p>17 Q. Now, mechanically, does this flag appear on 18 the individual's membership record or is it on a 19 separate document?</p> <p>20 A. I have no --</p> <p>21 MR. ERNST: Just a minute. You had a 22 deposition on this point, and I think it's -- it's not 23 covered in this order as well and you had a deposition 24 on this point so you know the answers to these questions 25 so I don't see why you get to ask them again when it's</p>

DWAYNE L. LIDDELL - 11/28/00

SCOTT V FOSTER, et al.

Page 77	Page 79
<p>1 not even in this order.</p> <p>2 MR. HILLAS: Well, Dave, I think we're nearing</p> <p>3 the end, --</p> <p>4 MR. ERNST: I appreciate that.</p> <p>5 MR. HILLAS: -- and this is a question</p> <p>6 directly relating to risk management practice. Whether</p> <p>7 ecclesiastical or as part of Mr. Liddell's duties, it is</p> <p>8 involving a practice related to the attempt to reduce</p> <p>9 incidents of child sex abuse. I think it's a fair</p> <p>10 question.</p> <p>11 MR. ERNST: Okay. But I just want to -- See,</p> <p>12 you're thinking that -- He's taking his authority from</p> <p>13 ecclesiastical leaders, not making his own authority,</p> <p>14 and I think that there's a disconnect on that. But go</p> <p>15 ahead and answer the question.</p> <p>16 A. Would you repeat it, please?</p> <p>17 Q. Have you ever seen such a red flag?</p> <p>18 A. Personally?</p> <p>19 Q. Yes.</p> <p>20 A. No.</p> <p>21 Q. Do you know that they exist?</p> <p>22 A. Yes. I'm not sure it's a red flag, it's an</p> <p>23 indication on the membership certificate.</p> <p>24 Q. And what is your understanding as to which</p> <p>25 document that notification appears?</p>	<p>1 A. I can only assume if I were bishop how I would</p> <p>2 process that under the tenets of the church. I would</p> <p>3 seek inspiration and guidance, I would pray about that,</p> <p>4 and when I felt it was appropriate, I would remove it.</p> <p>5 Q. Is it your understanding that it is the</p> <p>6 bishop's decision whether or not that --</p> <p>7 A. There are instances that require --</p> <p>8 Q. Excuse me. Whether that notation should</p> <p>9 remain on the record or not?</p> <p>10 A. There are some instances that require approval</p> <p>11 of the first presidency.</p> <p>12 Q. And that's in the instance of excommunication?</p> <p>13 MR. ERNST: You know, all this is covered in</p> <p>14 the Handbook of Instructions which you've had for at</p> <p>15 least a year and a half.</p> <p>16 MR. KOSNOFF: Yeah, you're right, David.</p> <p>17 MR. ERNST: So of course he might say</p> <p>18 something that is not totally consistent with every word</p> <p>19 in there and that would be very unfair.</p> <p>20 MR. KOSNOFF: Okay. David, you made your</p> <p>21 point.</p> <p>22 Q. (By Mr. Kosnoff) To your knowledge,</p> <p>23 Mr. Liddell, has risk management or anybody connected</p> <p>24 with handling the child sex abuse claims and lawsuits</p> <p>25 consulted with anybody from outside the church?</p>
Page 78	Page 80
<p>1 A. On that person's membership record.</p> <p>2 Q. If an individual is excommunicated for child</p> <p>3 sex abuse and is then rebaptized back into the church,</p> <p>4 and assuming further that that was a member who, prior</p> <p>5 to his excommunication, had such a red flag on his</p> <p>6 membership record, upon rebaptism into the church, do</p> <p>7 you know whether or not that red flag is wiped from the</p> <p>8 record or whether it continues to be maintained on the</p> <p>9 record?</p> <p>10 MR. ERNST: Just a moment. I'm going to</p> <p>11 object. Again, this is beyond the scope. He was not</p> <p>12 designated for this point. You had a deposition on</p> <p>13 this, and there's no time frame connected with this</p> <p>14 request so I'll make those objections.</p> <p>15 Q. Go ahead, Mr. Liddell.</p> <p>16 A. It's my understanding that that indication</p> <p>17 stays on the membership record until an ecclesiastical</p> <p>18 leader determines that it should be removed.</p> <p>19 Q. And is it your understanding that that's true</p> <p>20 even if that individual is rebaptized?</p> <p>21 A. I don't know.</p> <p>22 Q. Do you have any knowledge as to what criteria</p> <p>23 are used by the church to determine whether or not that</p> <p>24 red flag should be removed from a member's membership</p> <p>25 record?</p>	<p>1 MR. ERNST: On?</p> <p>2 Q. On improving risk reduction?</p> <p>3 A. I can only speak for the Risk Management</p> <p>4 Division. We have not.</p> <p>5 Q. Whose idea was the help line? Was it yours?</p> <p>6 A. No.</p> <p>7 Q. Were you involved with any protocols involving</p> <p>8 the help line?</p> <p>9 A. No.</p> <p>10 Q. Did you have any input into how the help line</p> <p>11 would be set up or staffed or what its mission would be?</p> <p>12 A. No.</p> <p>13 Q. Does the Office of Risk Management receive any</p> <p>14 information back regarding the frequency of use of the</p> <p>15 help line?</p> <p>16 A. No. And by Office of Risk Management, I</p> <p>17 presume you mean the Risk Management Division.</p> <p>18 Q. The Risk Management Division. The answer is</p> <p>19 the same?</p> <p>20 A. No.</p> <p>21 Q. Have you or your office ever requested that</p> <p>22 the data collected through the help line be retained for</p> <p>23 analysis by your department?</p> <p>24 A. No.</p> <p>25 Q. The committee that you said meets every two</p>

DWAYNE L. LIDDELL - 11/28/00

SCOTT V FOSTER, et al.

Page 81		Page 83
1	weeks at Kirton McConkie, are any minutes or documents	1
2	kept --	2
3	MR. ERNST: I would --	3
4	Q. -- of those meetings?	4
5	MR. ERNST: Two things. That wasn't his	5
6	testimony. It wasn't every two weeks and it wasn't at	6
7	Kirton McConkie. Go ahead and answer the question.	7
8	A. I was going to correct that. I believe I	8
9	testified it was LDS Social Services.	9
10	Q. It was held at social services?	10
11	A. LDS Social Services' office.	11
12	Q. And not every two weeks, but --	12
13	A. Generally.	13
14	Q. Generally every two weeks.	14
15	Do you keep any minutes or notes or any	15
16	records of those meetings?	16
17	A. I do not.	17
18	Q. Does anybody else in that meeting, to your	18
19	knowledge?	19
20	A. Yes.	20
21	Q. Who?	21
22	A. Kirton McConkie.	22
23	Q. And do they retain those or are you given a	23
24	copy?	24
25	A. I am not given a copy.	25
Page 82		
1	MR. KOSNOFF: That's all I have.	
2	MR. ERNST: Can we chat here for just a	
3	second? I think we're about done.	
4	(Break: 2:07-2:09)	
5	MR. ERNST: No questions.	
6	(DEPOSITION ADJOURNED at 2:09 p.m.)	
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		